

107TH CONGRESS
1ST SESSION

S. 275

To amend the Internal Revenue Code of 1986 to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers, to preserve a step up in basis of certain property acquired from a decedent, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2001

Mr. KYL (for himself, Mr. BREAU, Mr. GRAMM, Mrs. LINCOLN, and Mr. BAYH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers, to preserve a step up in basis of certain property acquired from a decedent, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Estate Tax Elimination Act of 2001”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 **SEC. 2. REPEAL OF ESTATE, GIFT, AND GENERATION-SKIP-**
 6 **PING TAXES.**

7 (a) IN GENERAL.—Subtitle B is hereby repealed.

8 (b) EFFECTIVE DATE.—The repeal made by sub-
 9 section (a) shall apply to the estates of decedents dying,
 10 and gifts and generation-skipping transfers made, after
 11 the date of the enactment of this Act.

12 **SEC. 3. PRESERVATION OF STEP UP IN BASIS OF CERTAIN**
 13 **PROPERTY ACQUIRED FROM A DECEDENT.**

14 (a) IN GENERAL.—Subsection (a) of section 1014
 15 (relating to basis of property acquired from a decedent)
 16 is amended to read as follows:

17 “(a) STEP UP IN BASIS.—

18 “(1) IN GENERAL.—Except as otherwise pro-
 19 vided in this section, the basis of property in the
 20 hands of a person acquiring the property from a de-
 21 cedent or to whom the property passed from a dece-
 22 dent shall, if not sold, exchanged, or otherwise dis-
 23 posed of before the decedent’s death by such person,
 24 be the fair market value of the property at the date
 25 of the decedent’s death.

1 “(2) LIMITATION.—The aggregate fair market
2 value of property which may be taken into account
3 under paragraph (1) shall not exceed the sum of—

4 “(A) the aggregate basis of all property de-
5 scribed in paragraph (1) in the hands of the de-
6 cedent, plus

7 “(B) \$2,800,000.

8 “(3) ALLOCATION OF AMOUNT.—The executor
9 shall allocate the limitation under paragraph (2)(B)
10 to the extent the aggregate fair market value ex-
11 ceeds the aggregate basis under paragraph (2).

12 “(4) INFLATION ADJUSTMENT OF EXPECTED
13 AMOUNTS.—In the case of decedents dying in a cal-
14 endar year after 2001, the dollar amount in para-
15 graph (2)(B) shall be increased by an amount equal
16 to the product of—

17 “(A) such dollar amount, and

18 “(B) the cost-of-living adjustment deter-
19 mined under section 1(f)(3) for such calendar
20 year, determined by substituting ‘2000’ for
21 ‘1992’ in subparagraph (B) thereof.

22 If any increase determined under the preceding sen-
23 tence is not a multiple of \$10,000, such increase
24 shall be rounded to the nearest multiple of
25 \$10,000.”.

1 (b) REGULATIONS.—Section 1014 is amended by
 2 adding at the end the following new subsection:

3 “(f) REGULATIONS.—The Secretary shall prescribe
 4 such regulations as may be necessary to carry out the pur-
 5 poses of this section.”.

6 (c) CONFORMING AMENDMENTS.—

7 (1) ADJUSTMENT TO BASIS.—Subsection (a) of
 8 section 1016 (relating to adjustments to basis) is
 9 amended by striking “and” at the end of paragraph
 10 (26), by striking the period at the end of paragraph
 11 (27) and inserting “, and”, and by adding at the
 12 end the following:

13 “(28) to the extent provided in section 1014
 14 (relating to step up in basis of certain property ac-
 15 quired from a decedent).”.

16 (2) The heading for section 1014 is amended by
 17 striking “**BASIS OF PROPERTY**” and inserting
 18 “**STEP UP IN BASIS OF CERTAIN PROPERTY**”.

19 (3) The item relating to section 1014 in the
 20 table of sections for part II of subchapter O of chap-
 21 ter 1 is amended by striking “Basis of property”
 22 and inserting “Step up in basis of certain property”.

23 (d) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to the estates of decedents dying
 25 after the date of the enactment of this Act.

1 **SEC. 4. CARRYOVER BASIS FOR CERTAIN PROPERTY AC-**
 2 **QUIRED FROM A DECEDENT.**

3 (a) GENERAL RULE.—Part II of subchapter O of
 4 chapter 1 (relating to basis rules of general application)
 5 is amended by inserting after section 1021 the following
 6 new section:

7 **“SEC. 1022. CARRYOVER BASIS FOR CERTAIN PROPERTY**
 8 **ACQUIRED FROM A DECEDENT.**

9 “(a) CARRYOVER BASIS.—Except as otherwise pro-
 10 vided in this section, the basis of carryover basis property
 11 in the hands of a person acquiring such property from a
 12 decedent shall be determined under section 1015.

13 “(b) CARRYOVER BASIS PROPERTY DEFINED.—

14 “(1) IN GENERAL.—For purposes of this sec-
 15 tion, the term ‘carryover basis property’ means any
 16 property—

17 “(A) which is acquired from or passed
 18 from a decedent who died after the date of the
 19 enactment of this section, and

20 “(B) which is not excluded pursuant to
 21 paragraph (2).

22 The property taken into account under subpara-
 23 graph (A) shall be determined under section 1014(b)
 24 without regard to subparagraph (A) of the last sen-
 25 tence of paragraph (9) thereof.

1 “(2) CERTAIN PROPERTY NOT CARRYOVER
2 BASIS PROPERTY.—The term ‘carryover basis prop-
3 erty’ does not include—

4 “(A) any item of gross income in respect
5 of a decedent described in section 691, and

6 “(B) any property for which basis is pro-
7 vided by section 1014.”.

8 (b) INFORMATION RETURNS.—

9 (1) IN GENERAL.—Subpart A of part III of
10 subchapter A of chapter 61 (relating to information
11 concerning persons subject to special provisions) is
12 amended by adding after section 6039G the fol-
13 lowing:

14 **“SEC. 6039H. INFORMATION REGARDING PROPERTY AC-**
15 **QUIRED FROM A DECEDENT.**

16 “Every executor shall furnish the Secretary such in-
17 formation with property to which section 1014 or 1022
18 applies as the Secretary may by regulations prescribe.”.

19 (2) CONFORMING AMENDMENT.—The table of
20 sections for subpart A of part III of subchapter A
21 of chapter 61 of such Code is amended by adding
22 after the item relating to section 6039G the fol-
23 lowing:

 “Sec. 6039H. Information regarding property acquired from a de-
 cedent.”.

1 (c) MISCELLANEOUS AMENDMENTS RELATED TO
 2 CARRYOVER BASIS.—

3 (1) CAPITAL GAIN TREATMENT FOR INHERITED
 4 ART WORK OR SIMILAR PROPERTY.—

5 (A) IN GENERAL.—Subparagraph (C) of
 6 section 1221(a)(3) (defining capital asset) is
 7 amended by inserting “(other than by reason of
 8 section 1022)” after “is determined”.

9 (B) COORDINATION WITH SECTION 170.—
 10 Paragraph (1) of section 170(e) (relating to
 11 certain contributions of ordinary income and
 12 capital gain property) is amended by adding at
 13 the end the following: “For purposes of this
 14 paragraph, the determination of whether prop-
 15 erty is a capital asset shall be made without re-
 16 gard to the exception contained in section
 17 1221(a)(3)(C) for basis determined under sec-
 18 tion 1022.”.

19 (2) DEFINITION OF EXECUTOR.—Section
 20 7701(a) (relating to definitions) is amended by add-
 21 ing at the end the following:

22 “(47) EXECUTOR.—The term ‘executor’ means
 23 the executor or administrator of the decedent, or, if
 24 there is no executor or administrator appointed,
 25 qualified, and acting within the United States, then

1 any person in actual or constructive possession of
 2 any property of the decedent.”.

3 (3) CLERICAL AMENDMENT.—The table of sec-
 4 tions for part II of subchapter O of chapter 1 is
 5 amended by adding at the end the following new
 6 item:

“Sec. 1022. Carryover basis for certain property acquired from a
 decedent.”.

7 (d) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to estates of decedents dying after
 9 the date of the enactment of this Act.

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